IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 18TH JANUARY 2007 / 28TH POUSHA 1928

WP(C).No. 8250 of 2005(F)

PETITIONER:

DR.SINDHU REGHUNATHAN,
LEKSHMI VIHAR, SREENIVASAPURAM, VARKALA, KOLLAM,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER,
KESAVAN REGHUNATHAN, LEKSHMI VIHAR,
KOTTAKKAKOM WARD, KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS:

1.STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2.SECRETARY,
LOCAL SELF GOVERNMENT (E) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

3.REGIONAL TOWN PLANNER,
REGIONAL TOWN PLANNING OFFICE, THIRUVANANTHAPURAM.

4.SECRETARY,
MANAMBOOR GRAMA PANCHAYAT, CHIRAYINKEEZHU TALUK,
THIRUVANANTHAPURAM.

5.TALUK SURVEYOR,
CHIRAYINKEEZHU TALUK, THIRUVANANTHAPURAM.

6.VILLAGE OFFICER,
VILLAGE OFFICE, MANAMABOOR.

R1 TO R3 & R5 & R6 BY GOVT. PLEADER MR.K.J.MOHAMMED ANSAR
R4 BY ADV.DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/01/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (W.P.C.NO.8250/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE SALE DEED NO.174/1995 OF KAVALAYOOR SRO DATED 10.2.1995.

EXT.P(a): TRUE COPY OF THE TAX RECEIPT IN RESPECT OF THE PROPERTY COVERED BY EXT.P1 SALE DEED IN THE NAME OF THE PETITIONER DT. 20.4.2004.

EXT.P2: TRUE COPY OF THE SKETCH SHOWING THE EXTENT OF THE PROPERTY COVERED BY EXT.P1 SALE DEED DATED NIL.

EXT.P3: TRUE COPY OF G.O.(Rt) NO.291/2005/LSGD PASSED BY THE SECOND RESPONDENT DATED 24.1.2005.

PIUS C. KURIAKOSE,J.

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W.P.(C)No.8250 of 2005

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Dated: 18th January, 2007

JUDGMENT

My attention was drawn to Ext.P3 order rejecting the petitioner's application for regularisation submitted before the Secretary of the Panchayat was passed by the Government on two reasons. The first reason is that the construction is put up on puramboke and the other is that the construction violates Rule 220(b) of the Kerala Panchayat Raj Act. Pursuant to the interim order passed by this court, the Taluk Surveyor has submitted a plan cum report on the basis of a measurement conducted by him. According to this plan cum report, the entirety of the construction is on land over which the petitioner is having title and in puramboke. Thus one of the grounds on which the Government passed Ext.P3 falls to the ground. The only surviving question is whether the Government has the power to regularise the construction which is constructed in violation of Rule 220(b). A scrutiny of relevant statutory provisions conjointly read with Rule 2(d) of the Kerala Building (Regularisation of Unauthorised Construction and Land Development) Rules, 1999 will reveal that the Government has the power in appropriate case to regularise constructions which are made in violation of Rule 220(b). On facts as seen from the materials placed on record, it is clear that

there are several buildings situated almost adjacent to the building of the petitioner which offends Rule 220(b) as the petitioner's building does. The Government will take into account this aspect also. Ext.P3 will stand quashed and there will be a direction to the Government to take a fresh decision on the petitioner's application for regularisation at the earliest and at any rate within three months of receiving a copy of this judgment.

The Writ Petition will stand allowed to the above extent. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**